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# WILEY REIN & FIELDING LLP

1776 K Street, N.W. Washington, DC

Date	Amount
04/09/2002	*********405.00

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**Operating Account** 

Pay Four Hundred Five and 00/100 Dollars ONLY

To the Order **£** 

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Bank of America, N.A. Washington, DC

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Attached is our check in full sentlement of items shown hereon. If not correct, please return with explanation or call us at (202)719-7512.

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Description FILING FEE	<b>Date</b> 04/09/2002	Invoice No.	Amount of Invoice 405.00	Discount .00	Net 405.00
				Total	405.00

# **FCC IBFS - Electronic Filing**

Submission\_id :IF32002000513 Successfully filed on :Apr 11 2002 10:29:53:873AM

Return to Main Menu 🥞

APPLICATION FOR SATELLITE SPACE AND EARTH STATION AUTHORIZATIONS FOR	FCC U
TRANSFER OF CONTROL OR ASSIGNMENT FCC 312 MAIN FORM FOR OFFICIAL USE	
ONLY	

FCC Use Only

# **2APPLICANT INFORMATION**

Enter a description of this application to identify it on the main menu:

3 12 common carrier earth station transfer of control/GTE Pacifica

-8. Legal Name of Applicant

Name:Pacific Telecom Inc.Phnne Nuniher:6703222866

**DBA Fax Number:** 6703224716

Name:

Street: 501280 E-Mail: colin.thompson@snipan.com

City: Saipan State: MP

Country: USA Zipcodc: 96950 -

**Attention:** Mr Colin M Thompson

-16. Name of Contact Representative (If other than applicant)

Name: Kenneth D. Patrich Phone Number: 202-383-3342

Wilkinson Barker Knauer, LLP Fax Number: 202-783-5851 Company:

2300 N St., NW E-Mail: kpatrich@wbklaw.com Street:

Suite 700

City: Washington Slate: VC

20037-Zipcode: Country: USA

Relationship: Legal Counsel Contact Attorney

Title:

#### CLASSIFICATION OF FILING

17. Choose the button next to the classification that applies to this filing for ooth questions a. and b. Choose only one

'or 17a and only one for 17b.

al Earth Station

a2. Space Station

(N/A) b1. Application for Liceuse of New Station

(N/A) b2. Application for Registration of New Domestic Receive-Only Station

(N/A) b3. Amendment to a Pending Application

(N/A) **h4.** Modification of License or Registration

, b5. Assignment of License or Registration

6 b6. Transfer of Control of License or Registration

(N/A) b7. Notification of Minor Modification

(N/A) b8. Application for License of New Receive-Only Station Using Non-U.S. Licensed Satellite

(N/A) b9. Letter of Intent to Use Non-U.S. Licensed Satellite to Provide Service in the United

(N/A) b10. Other (Please specify)

17c. Is a fee submitted with this application?  If Yes, complete and attach FCC Form 159. If No, indicate reason for fee exemption (see 41 C.F.R.Section 1.1114).  Governmental Entity  Other(please explain):						
17d						
Fee Classification A CNX - Fixed Satellite Transmit/Receive Earth Quantity1 Station						
Fee Classification B	Quantity					
18. If this filing is in reference to an existing station. enter:  (a) Call sign of station:  Not Applicable	19. If this tiling is an amendment to a pending a  (a) Date pending application was filed:  Not Applicable	application enter:  (b) File number of pending application:  Not Applicable				

# TYPE OF SERVICE

20. NATURE OF SERVICE: This tiling is for an authorization to provide or use the following type(s) of service(s): Select all that apply:				
a. Fixed Satellite				
b. Mobile Satellite				
c. Radiodetermination Satellite				
d. Earth Exploration Satellite				
e. Direct to Home Fixed Satellite				
f. Digital Audio Radio Service				
g. Other (please specify)				
?1. STATUS: Choose the button next to the applicable status. Choose	22. If eanh station applicant, check all that apply.			
only one.	Using U.S. licensed satellites			
C Common Carrier Non-Common Carrier	Using Nun-U.S. licensed satellites			
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# TYPE OF STATION

5. CLASS OF STATION: Choose the button next to the class of station that applies. Choose only one.
a. Fixed Earth Station
C b. Temporary-Fixed Earth Station
C c. 12/14 GHz VSAT Network
C d. Mobile Earth Station
e. Geostationary Space Station
C f. Nan-Geostationary Space Station
C, g. Other (please specify)
6. TYPE OF EARTH STATION FACILITY Choose only one.
Transmit/Receive C Transmit-Only C Receive-Only C NA
PURPOSE OF MODIFICATION
27. The <b>purpose</b> of this proposed modification is to: (Place an " X in the box(es) next to all that apply.)
Nut Applicable

# ENVIRONMENTAL POLICY

28. Would a Commission grant of any proposal in this application or amendment have a significant environmental mpact as defined by 47 CFR 1.1307? If YES, submit the statement as required by Sections 1.1308 and 1.1311 of	C Yes © No
he Commission's rules, 47 C.F.R. 1.1308 and 1.131 Las an exhibit to this application. A Radiation Hazard Study must accompany all applications for new transmitting facilities, major modifications, or major amendments.	Ex.Item I

ALIEN OWNERSHIP Earth station applicants not proposing to provide broadcast, common carrier, aeronautical **en** route or aeronautical fixed radio station services are not required to respond to Items 30–34.

29. Is the applicant a foreign government or the representative of any foreign government?	C Yes 🕟 No <table-cell> N/A</table-cell>
30. Is the applicant an alien or the representative of an alien?	C Yes G No
31. <b>Is</b> the applicant a corporation organized under the laws of any foreign government?	O Yes O No

32. Is the applicant a corporation of which any officer or director is an alien or of which more than one—fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	C Yes	<b>⊙</b> No
33. Is the applicant a corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens. their representatives, or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	• Yes • N/A	C No
34. If any answer to questions 29, 30. 31, 32 and/or 33 is Yes, attach as an exhibit an identification of the aliens or foreign entities, their nationality, their relationship to the applicant, and the percentage of stock they own or vole.	Exhibit 32	

# BASIC QUALIFICATIONS

35. Does the Applicant request any waivers or exemptions from any of the Commission's Rules'! If Yes, attach as an exhibit, copies of the requests for waivers or exceptions with supporting documents.	C Yes Exhibit 33	<b>€</b> ; <sup>No</sup>
36. Has the applicant or any patty to this application or amendment had any FCC station authorization or license revoked or had any application for an initial. modification or renewal of FCC station authorization, license, or construction permit denied by the Commission7 IfYes, attach as an exhibit, an explination of circumstances.	C Yes	⊙ No

37. Has the applicant, or any party to this application or amendment, or any party directly or indirectly controlling the applicant ever been convicted of a felony by any state or federal court? If Yes. attach as an exhibit. an explination of circumstances.	C Yes	<b>⊙</b> No
38. Has any court finally adjudged the applicant, or any person directly or indirectly controlling the applicant, guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication. directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement or any other means or unfair methods of competition? If Yes, attach as an exhibit, an explanation of circumstances	C Yes	<b>⊙</b> <sup>No</sup>
39. <b>Is</b> the applicant, or any person directly or indirectly controlling the applicant, currently a party <b>in</b> any pending matter referred to in the preceding two items? If yes, attach as an exhinit, an explanation of the circumstances.	O Yes	⊙ <sup>No</sup>
<b>40.</b> If the applicant <b>is</b> a corporation and is applying for a space station license, attach as an exhibit the names, address, and citizenship of those stockholders owning <b>a</b> record and/or voting 10 percent or more of the Filer's voting stock and the percentages so held. In the case of fiduciary control, indicate the beneficiary(ies) or <b>class of</b> beneficiaries. <b>Also</b> list the names and addresses of the officers and directors <b>of</b> the Filer.		
41. By checking Yes, the undersigned certifies, that neither applicant nor any other party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti–Drug Act of 1988.21 U.S.C. Section 862, because of a conviction for possession or distribution of a controlled substance. Sec 47 CFR 1.2002(b) for the meaning of "party to the application" for these purposes.	• Yes	C No

42a. Does the applicant intend to use a non-U.S. licensed satellite to provide service in the United States? **IfYes**, answer 42b and attach an exhibit providing the information specified in 47 C.F.R. 25.137, as appropriate. **If** No, proceed to question 43.

C Yes

No
 No

42b. What administration has licensed or is in the process of licensing the space station? If no license will be issued, what administration has coordinated or is in the process of coordinating the space station?

43. Description. (Summarize the nature of the application and the services to be provided).

By this Application, Applicants seek consent to a transfer of control of Micronesian Telecommunications Corporation, the parent holding company of GTE Pacifica Inc., licensee of a common carrier C-band transmit/receive earth station to provide digital voice/data services,

Exhibit I

#### CERTIFICATION

The Applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. The applicant certifies that grant of this application would not cause the applicant to be in violation of the spectrum aggregation limit in 47 CFR Part 20. All statements made in exhibits are a material part hereof and are incorporated herein as if set out in full in this application. The undersigned, individually and for the applicant, hereby certifies that all statements made in this application and in all attached exhibits are true, complete and correct to the best of his or her knowledge and belief, and are made in good faith.

<b>4.</b> Applicant is a (an): (Choose the button next	to applicable response.)		
Individual Unincorporated Association Partnership Corporation Governmental Entity Other (please specify)			
45. Name of Person Signing George Chiu		46. Title of Person Sig Director and Authorize	
Attachment 1:	Attachment 2:		Attachment 3:
	tion 1001), AND/OR RE	VOCATION OF ANY S	BY FINE AND / OR IMPRISONMENT TATION AUTHORIZATION n <b>503).</b>

# SATELLITE EARTH STATION AUTHORIZATIONS FCC Form 312 - Schedule A

FOR OFFICIAL USE ONLY

Select one of the following

CONSENT TO TRANSFER OF CONTROL

CONSENT TO ASSIGNMENT OF LICENSE

NOTIFICATION OF TRANSFER OF CONTROL OF RECEIVE ONLY REGISTRATION

NOTIFICATION OF ASSIGNMENT OF RECEIVE ONLY REGISTRATION

11. Name of Licensec (as shown on FCC 312 - Main Form)

Name: GTE Pacifica Inc. Phone 66(0)22548470

Numher:

Street: P.O. Box 500306 E-Mail: dodson@asianet.co.th

City: Saipan State:

Country: USA Zipcode: 96950

**Attention:** John P. Dodson

A8. Li	st Callsign(s	) of station(s) bei	ing assigned or	transfered	,	A9. No. of static	on(s) listed
	Callsign: E000164	Callsign:	Callsign:	Callsign:			
AIO.	Name of Tran	sferor/ Assignor					
		Name:	Christopher 1	M. Bennett		Phone <b>Number:</b>	212-395-0029
		Company:	Bell Atlantic Holdings, In	New Zealand c.		Fax Numher:	212-764-2739
		Street:	I095 Avenue	e of Americas		E-Mail:	christopher.m.bennett@verizon.
			Room 3828				
		City:	New York			State:	NY
		Country:	USA			Zipcode:	10036 -
		Contact Title:	General Cou	nsel and Secreta	ary	Relationship:	Legal Counsel

0.5	Name of	Transferee/	Assignee
11.	TYPHIL OF	TI BIUNTETEE/	Assigned

Name: Pacific Telecom Inc. Phone 670–322–2866

Number:

**DBA** Name: Fax Number: 670–322–2866

Street: P.O. Box 501280 E-Mail: colin.thompson@saipan.com

City: Saipan State: MP

Country: USA Zipcode: 96950 -

Attention: Colin M. Thompson

A20. If these facilities are licensed, is the transferee /assignee directly or indirectly controlled by any other entity'! fyes. attach as Exhibit **E**, a statement (including organizational diagrams where appropriate) which fully and completely identifies the nature and extent of control including: (I) the name, address, citizenship, and primary pusienss of the controlling entity and any intermediate subsidiaries or parties, and (2) the names, addresses, itizenship, and the percentages of voting and equity stock of those stockholders holding 10 percent or more of the controlling corporation's voting **stock**.

Yes
O No
O N/A Exhibit E

421. If these facilities are licensed, attach as Exhibit **F**, a complete statement setting forth the facts which show 10W the assignment **or** transfer will serve the public interest.

Exhibit F

A22. Printed Name of Licensee (Must agree with A1) John P. Dodson (for GTE Pacifica Inc.)	A24. Title (Office Held by Person Signing) Director-Verizon Asset Management
A26. Printed Name of License Transferor /Assignor (Must agree with A10) Christopher M. Bennett (for Bell Atlantic New Zeal	A28. Title (Office Held by Person Signing)  General Counsel and Secretary
A26. Printed Name of License Transferee / Assignee (Must agree with A15) George Chiu (for Pacific Telecom Inc.)	A28. Title (Office Held by Person Signing)  Director and Authorized Representative

#### 43. Description. (Summarize the nature of the application and the services to be provided).

By this Application, Applicants seek consent to a transfer of control of Micronesian Telecommunications Corporation, the parent holding company of GTE Pacifica Inc., licensee of a common carrier C-band transmit/receive earth station to provide digital voice/data services, to Pacific Telecorn Inc. Simultaneous with this Application, Pacific Telecom is filing applications to transfer control of numerous Section 214 authorizations, a non-common carrier earth station license, a cable landing license and a cellular license held by GTE Pacifica, as well as a blanket domestic 214 authorization held by MTC. A list of all licenses and authorizations being transferred is attached hereto.

# Exhibit. Items 1-8

Pacific Telecom Inc. ("Applicant") is providing its full mailing address through **this** exhibit because the International Bureau's electronic Form 312 automatically generates Applicant's P.O. Box Number in a field labeled "Street," without indicating that the Number is associated with a P.O. Box. Applicant's mailing address is: Pacific Telecom Inc., P.O. Box 501280. Saipan, MP, 96950.

#### **EXHIBIT 1**

# FCC Authorizations Held by Micronesian Telecommunications Corporation and GTE Pacifica Inc.

## **International Section 214 Authorizations**

ITC-214-19970502-00247; 214 Authorization for Facilities-Based and Resale ITC-ASG-19971211-00776; (Switched and Private Line Non-Interconnected and ITC-97-779-AL Interconnected where lawful), excluding the Dominican Republic and Venezuela (GTE Pacifica)

ITC-ASG-19971211-00778; 214 Authorization to Construct and Operate the MTC ITC-97-778-AL Interisland Cable System Between the Commonwealth

of the Northern Manana Islands and **Guam** Granted By ITC-92-140 [8 FCC Red ?SO (1993)] (GTE Pacifica)

**Cable Landing License** 

SCL-92-003-AL Cable Landing License to Land and Operate the MTC

Interisland Cable System Between the Commonwealth of the Northern Mariana Islands and **Guam** Granted by SCL-92-003 [8 FCC Rcd 750 (1993)] (GTE Pacifica)

**Earth Station Authorizations** 

SES-LIC-20000414-00563; C-band transmitireceive earth station to provide digital

E000164 voice/data services (GTE Pacifica)

SES-RWL-20001006-0 1900; C-band transmitireceive earth station to provide digital

Ka-34 voice/data services (GTE Pacifica)

**Wireless Telecommunications Authorization** 

KNKN616 Common Carrier Radio License for Cellular Radio

Telephone Service (GTE Pacifica)

**Domestic Section 214 Authorization** 

Blanket Authorization Domestic Interstate 214 Authorization for CNMI and

Guam Inter-exchange Carrier Operations (GTE Pacifica)

Blankel Authorization Domestic Interstate 214 Authorization for CNMI Local

Exchange Carrier Operations (Micronesian

Telecommunications Corporation)

#### **EXHIBIT E**

The transferee, Pacific Telecom Inc., is a United States corporation incorporated in the Commonwealth of the Northern Mariana Islands ("CNMI") and owned by a consortium of investors with extensive expenence in the Pacific region. Specifically. Prospector Investment Holdings Inc. holds a 50% equity and voting interest in transferee Pacific Telecom Inc. Ricardo C. Delgado holds 60% of Prospector Investment Holdings Inc. (and a 30% indirect ownership interest in Pacific Telecom Inc.) and Jose Ricardo Delgado holds 40% of Prospector Investment Holdings Inc. (and a 20% indirect ownership interest in Pacific Telecom Inc.). THC Communications Corporation holds a 30% equity and voting interest in Pacific Telecom Inc., and Missouri Holdings Corporation holds a 20% equity and voting interest in Pacific Telecom Inc. Pursuant to a shareholders' agreement, Missouri Holdings Corporation will vote for the slate of directors nominated by THC Communications Corporation, and the parties have agreed that the operations and management of the operating carriers will be delegated to Prospector Investment Holdings Inc

NAME / % EQUITY	ADDRESS	CITIZENSHIP	PRINCIPAL
			BUSINESS
THC Communications	PO Box 501280	CNMI Corporation	Communications
Comoration	Saipan, MP 96950		Investment
30% equity, voting			
Prospector Investment	C/o Trident Trust	Cayman Island	Communications
Holdings Inc.	(Cayman)Ltd.	Corporation	Investment
50 % equity, voting	One Capital Place		
•	PO Box <b>847</b>		
	Grand Cayman, B. W.I.		
Missouri Holdings	PO Box 712	CNMI Corporation	Communications
Comoration	Saipan, MP 96950	_	Investment
20 % equity, voting	-		
Tan Holdings Corp.	PO Box 501280	CNMI Corporation	Communcations
100% equity, voting of	Saipan, MP 96950		Investment
THC Communications			
Corp. (30% equity, voting			

of Pacific Telecom Inc.)			
Ricardo C. Delgado	4/F SGV II Building	Philippines	Individual
60% <b>equity,</b> voting in	Makati City, Philippines		
Prospector Investment			1
Holdings Inc. (30% equity,			
voting in Pacific Telecom			
Inc.)			
Jose Ricardo Delgado	4/F SGV II Building	Philippines	Individual
40% equity, voting in	Makati City, Philippines		
Prospector Investment			
Holdings Inc. (20% equity,			
voting in Pacific Telecom			
Inc.)			
Siu Lin Tan (as trustee)	PO Box 501280	J.S.A./CNMI	Individual
100% control of <b>Tan</b>	Saipan, MP 96950		
Holdings Corp. (30%			
equity, voting in Pacific			
Telecom Inc.)			
Michael Kai Leung	PO Box 500712	Canada	Individual
20% equity, voting in	Saipan, MP 96950		
Missouri Holdings Corp.			
20% equity, voting in			
Pacific Telecom Inc.)			ļ

# **EXHIBIT F**

# **Public** Jnterest Statement

Consummation of the proposed transaction is in the public interest.' The Transferee's shareholders are companies with a strong presence in the Pacific region, giving them substantial community of interest with the Commonwealth of the Northern Manana Islands (CNMI), the territory served by GTE Pacifica Inc. In particular, the principals of **the** transferee's 50 percent shareholder, Prospector Investment Holdings Inc., have substantial experience in building and operating a telecommunications carrier (since divested) in the Philippines. Additionally, indirect thirty percent shareholder, Tan Holdings Corporation is a CNMI company that is one of the largest private employers and taxpayers in the CNMI. This aspect of local ownership will benefit GTE Pacifica Inc. and its customers.

<sup>1</sup> 47 U.S.C. § 310(d).

#### EXHIBIT, ITEM 32

Pacific Telecom Inc. proposes to acquire from transferor Bell Atlantic New Zealand Holdings, Inc. all of the outstanding stock of Micronesian Telecommunications Corporation, the sole shareholder of FCC license holder GTE Pacifica Inc. Thus, Pacific Telecorn Inc. – the acquiring company – is the "applicant" in this application. Pacific Telecom Inc. answered "no" to FCC Form 312, question 32, a question which apparently is intended to confirm the applicant's compliance with Section 310(b)(3) of the Communications Act of 1934, as amended (the "Act"). Question 32 reads as follows:

Is the applicant a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?

Although, as described below, more than one-fifth of the capital stock of Pacific Telecom Inc. is owned by a corporation organized under the laws of a foreign country, Pacific Telecom Inc. answered "no" to Question 32 because the proposed ownership structure of GTE Pacifica Inc. fully comports with Section 310(b)(3) of the Act. This is because GTE Pacifica Inc. is separated from direct foreign ownership in excess of 20 percent by two layers of corporations organized under the laws of the Commonwealth of the Northern Mariana Islands ("CNMI"), a U.S. overseas territory. Specifically, both GTE Pacifica Inc., the FCC licensee, and Micronesian Telecommunications Corporation, its immediate parent, are organized under the laws of the U.S.A./CNMI. Pacific Telecom Inc. (also a U.S.A./CNMI corporation) will own 100% of Micronesian Telecommunications Corporation. Thus, the ownership structure of FCC licensee GTE Pacifica will comply with Section 310(b)(3) because none of GTE Pacifica's stock will be held directly by aliens, a foreign government, or a corporation organized under the laws of a foreign country.

The **indirect** foreign ownership of FCC license holder GTE Pacifica is the subject of a simultaneously filed "Petition For Declaratory Ruling Under Section 310(b)(4) of the Communications Act, as Amended, To Permit Indirect Foreign Ownership Exceeding 25 Percent," a copy of which is submitted by Pacific Telecom Inc. as Exhibit Item 33, Attachment 1, to this Form 312 application. Specifically, Pacific Telecom Inc. is owned, in **part**, by a corporation organized under the laws of a foreign government. Prospector Investment Holdings Inc., a corporation of the Cayman Islands, British West Indies, holds 50% of the equity of Pacific Telecom Inc. <sup>1</sup> THC Communications Corporation and Missouri Holdings Corporation, both U.S.A./CNMI corporations, hold the remaining 30% and 20% of the equity of Pacific Telecom Inc. respectively.' The table and diagram on the following pages summarize the ownership information after consummation of the proposed transaction.

<sup>&</sup>lt;sup>1</sup> Ricardo C. Delgado holds 60% of Prospector Investment Holdings Inc., and Jose Ricardo Delgado holds 40% of Prospector investment Holdings Inc. Each is a citizen of the Philippines.

<sup>&</sup>lt;sup>2</sup> The trustee for each of the trusts that ultimately control THC Communications Corporation is Siu Lin Tan, a U.S. cilizen, while the ultimate owner of Missouri Holdings Corporation is Michael Kai Leung. a citizen of Canada.

NAME / % EQUITY	ADDRESS	CITIZENSHIP	PRINCIPAL BUSINESS
GTE Pacifica Inc. FCC License Holder	PO Box 500306 Saipan, MP 96950	CNMI Corporation	Telecommunications services
Micronesian Telecommunications Corp. ("MTC") 100% equity. voting, of GTE Pacifica Inc.	PO Box 500306 Saipan, MP 96950	CNM1 Corporation	Communications Investment
Pacific Telecom Inc. 100% equity, voting, of MTC	PO Box 501280 Saipan, MP 96950	CNMl Corporation	Communications Investment
THC Communications Corporation 30% equity, voting, of Pacific Telecom Inc.	PO Box 50 I280 Saipan, MP 96950	CNMI Corporation	Communications Investment
Missouri Holdings Corporation 20% equity, voting, of Pacific Telecom Inc.	PO Box 712 Saipan. MP 96950	CNMI Corporation	Communications Investment
Prospector Investment Holdings Inc. 50% equity, voting, of Pacific Telecom Inc.	Cio Trident Trust (Cayman) Ltd. One Capital Place PO Box 847 Grand Cayman, B.W.I.	Cayman Island Corporation	Communications Investment
Tan Holdings Corp. 100% equity, voting of THC Communications Corp. (30% equity. voting of Pacific Telecom Inc.)	PO Box 501280 Saipan, MP 96950	CNM1 Corporation	Communications Investment
Ricardo C. Delgado 60% equity in Prospector Investment Holdings Inc., voting (30% equity, voting in Pacific Telecom Inc.)	4/F SGV II Building 6758 Ayala Ave. Makati City, Philippines	Philippines	Individual
Jose Ricardo Delgado 40% equity in Prospector Investment Holdings Inc., voting (20% equity, voting in Pacific Telecom Inc.)	4/F SGV II Building 6758 Ayala Ave. Makati City, Philippines	Philippines	Individual

Siu Lin Tan (as trustee) 100% control of Tan Holdings Corp. (30% equity, voting in Pacific Telecom Inc.)	PO Box 501280 Saipan. MP 96950	U.S.A./CNMI	Individual
Michael Kai Leung 20% equity, voting in Missouri Holdings Corp. (20% equity, voting in Pacific Telecom Inc.)	PO <b>Box 500712</b> Saipan, <i>MP 96950</i>	Canada	Individual

# **EXHIBIT, ITEM 33**

The ownership structure of the applicant, Pacific Telecom Inc., fully comports with Section 310(b)(4) of the Communications Act of 1934, as amended, and as implemented by the FCC. Attached to this exhibit is a copy of the "Petition For Declaratory Ruling Under Section 310(b)(4) of the Communications Act, as Amended, To Permit Indirect Foreign Ownership Exceeding 25 Percent" submitted by Pacific Telecom Inc.

<sup>&</sup>lt;sup>1</sup> Exhibit, Item 32 provides information also discussed in the attached petition.

# Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. **20554**

In the Matter of	)		
PACIFIC TELECOM INC.	) )	File No.	
Petition for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of <b>1934</b> , as	) ) )		
Amended, to Permit Indirect Foreign Ownership Exceeding 25	) )		
Percent In Common Carrier Licensee GTE Pacifica Inc.	)		

# PETITION OF PACIFIC TELECOM INC, FOR DECLARATORY RULING UNDER SECTION 310(b)(4) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

Pacific Telecom Inc. ("Pacific Telecom") hereby requests a declaratory ruling that indirect foreign investment of 72.1 percent from entities having theu principal place of business in (and/or from individuals who are citizens of) World Trade Organization ("WTO") Member countries, resulting from Pacific Telecom's proposed acquisition of Micronesian Telecommunications Corporation and its subsidiary (and FCC common carrier licensee) GTE Pacifica Inc., is consistent with the public interest standard under Section 310(b)(4) of the Communications Act of 1934, as amended (the Act"). Pacific Telecom further requests a ruling that future foreign ownership from entities having their principal place of business in (and/or from individuals who are citizens of) WTO member countries, up to an additional 15 percent, also would serve the public interest.

### I. THE PARTIES

# A. Transferor Bell Atlantic New Zealand Holdings, Inc. ("BANZHI")

Verizon Communications Inc. ("Verizon") is a publicly held corporation organized under the laws of Delaware. Venzon, through a series of wholly owned subsidiaries, owns 100 percent of the outstanding common stock of Bell Atlantic New Zealand Holdings, Inc. ("BANZHI").

BANZHT is the current 100 percent shareholder of Micronesian Telecommunications

Corporation ("MTC"), a corporation organized under the laws of the Commonwealth of the Northern Mariana Islands ("CNMI"). BANZHI is the transferor in the proposed transaction as it intends to sell to Pacific Telecom all the outstanding stock of MTC.

MTC provides local exchange access service in the CNMI. MTC also is the 100 percent owner of GTE Pacifica Inc.. a separate CNMI corporation that provides domestic and international telecommunications services in the CNMI. In particular, GTE Pacifica holds one common carrier radio license for cellular radio telephone service and one common carrier satellite earth station license that are subject to Section 310(b)(4) of the Act. GTE Pacifica also holds other FCC authorizations, including international Section 214 authorizations, a domestic Section 214 authorization for interexchange service in CNMI, a cable landing license, and a non-common carrier satellite earth station license, as listed in Attachment A to this request

### B. Transferee Pacific Telecom Inc.

Pacific Telecom is a privately held corporation incorporated under the laws of the CNMI formed by a consortium of investors as the vehicle to purchase the assets of MTC and GTE

CNMI is a self-governing commonwealth in political union with and under the sovereignty of the United States of America. With a few exceptions (not relevant here) arising from the transition to commonwealth status, citizens of CNMI are U.S. citizens. See Presidential Proclamation No. 5564,51 Fed. Reg. 40399 (November 7, 1986) (http://www.nara.gov/fedreg/codfficPROCS/pOSS64.html).

Pacifica. Pacific Telecom has three shareholders: 30 percent of the equity is owned by THC Communications Corporation ("THC Communications"); 20 percent of the equity is owned by Missouri Holdings Corporation ("Missouri Holdings"); and 50 percent of the equity is owned by Prospector Investment Holdings Inc. ("Prospector"). Under a shareholders' agreement, the shareholders agreed to elect to the board of directors the three nominees each of Prospector and THC Communications, respectively. The shareholders also agreed that Prospector would take the lead in managing the operations of MTC and GTE Pacifica. Each of the shareholder corporations is described below.

equity and voting interest in transferee Pacific Telecom. THC Communications is 100 percent owned by Tan Holdings Corporation, also a privately held CNMI corporation. Tan Holdings Corporation is the largest private employer and taxpayer in the CNMI, with interests in diverse industries. Tan Holdings is owned 100 percent by various Tan Family trusts, each of which was created under CNMI law and each of whose trustee is Siu Lin Tan, a CNMI/U.S. citizen.

Twenty-four of the current twenty-seven beneficiaries of the trusts are CNMI/U.S. citizens, such that 93 percent of the beneficial interests in the trusts are currently attributable to U.S. citizens and 7 percent of the beneficial interests in the trusts are attributable to foreign citizens. As discussed in the following section, the ultimate beneficial interests of the foreign citizens in transferee Pacific Telecom are further diluted by the minority interest in Pacific Telecom of THC Communications, reducing the interests in Pacific Telecom of foreign beneficiaries to the Tan Family trusts to 2.1 percent.

Missouri Holdings Corporation is a privately held corporation incorporated under the laws of CNMI and holds a 20 percent equity interest in transferee Pacific Telecom. Missouri

Holdings has agreed to vote its shares for the directors nominated by THC Communications. Missouri Holdings is owned 100 percent by Michael Kai Leung, a Canadian citizen. Mr. Leung holds business interests in several ventures in the Pacific region, including business interests in the CNMI and an 18 percent, non-controlling stake in People's Cellular, a cellular carrier in Hong Kong.

Prospector holds a 50 percent equity and voting interest in transferee Pacific Telecom and, as noted above, will control operations and management of MTC and GTE Pacifica.

Prospector is a privately held corporation incorporated under the laws of the Cayman Islands in the British West Indies. The principal business of Prospector is as an investment vehicle for holding the investment in Pacific Telecom. The common stock of Prospector is owned 60 percent by Ricardo C. Delgado (father) and 40 percent by Jose Ricardo Delgado (son), both of whom are citizens of the Philippines. The principal business of the Delgados is transacted through Citadel Holdings Inc., a Philippines corporation engaged primarily in the transportation and logistics businesses, owning among other things, the largest airport services company in the Philippines. Citadel founded and was the majority owner of ISLACOM, the second largest telecommunications company in the Philippines, before selling its slake in 1999.

### II. PUBLIC INTEREST STATEMENT

Section 310(b)(4) of the Act states as follows:

(b) No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by ... (4) any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

In its Foreign Participation Order, the Commission concluded that allowing indirect foreign investment in common carrier radio licensees beyond the 25 percent benchmark established by Section 310(b)(4) of the Act could promote competition in the U.S. market, thereby promoting the U.S. public interest.<sup>2</sup> The Commission analyzes proposed indirect foreign investments in common carrier licensees "guided... by the U.S. Government's commitment under the World Trade Organization ("WTO") Basic Telecommunications Agreement, which seeks to promote global markets for telecommunications so that consumers may enjoy the benefits of competition." In particular, the Commission found that "the public interest will be served by permitting more open investment by entities from WTO member countries in U.S. common carrier wireless licensees." Based on this principle, the Commission has adopted a "strong presumption that no competitive concerns are raised by the indirect foreign investment" from entities from WTO member countries.

The Commission uses the "principal place of business" test to determine the home market of indirect foreign investors for purposes of its analysis. In this case, Prospector Investment Holdings Inc. (the fifty percent equity owner of Pacific Telecom) is incorporated in the Cayman Islands of the British West Indies, a British dependent territory. The FCC previously has deferred to an opinion provided by the U.S. Department of State concluding that the 1994

Rules and Policies on Foreign Participation in the U.S Telecommunications Market, 12 FCC Rcd 23891,23940 (1997) ("Foreign Participation Order").

Aerial Communications. Inc. and Voicestream Wireless Holdings Corp., 15 FCC Rcd 10089, 10093-94 (2000).

Foreign Participation Order, 12 FCC Rcd at 23940.

Voicestream Wireless Corp., 15 FCC Rcd 3341, 3348 (2000)

<sup>&</sup>lt;sup>6</sup> Foreign Participation Order, 12 FCC Rcd at 23941.

Marrakesh Agreement Establishing the World Trade Organization applies to all British Territories.' Thus, the Cayman Islands is considered a WTO member country.

Because, however, Prospector is a passive investment corporation rather than an operating company, the Commission may want to **look** to the citizenship of Prospector's owners and their principal place of business for its home market analysis. The Philippines also is a WTO member country. Regardless of which WTO member country is considered Prospector's principal place of business, therefore, Pacific Telecom is entitled to the presumption that foreign investment from Prospector would serve the U.S. public interest.

Twenty percent of Pacific Telecom is held by Missouri Holdings Corporation, a CNMI corporation which **is** owned 100 percent by Michael Kai Leung. Mr. Leung is a Canadian citizen who operates and invests in businesses in the Pacific region, including a non-controlling 18 percent interest in a wireless carrier in Hong Kong, People's Cellular. Regardless of whether CNMI, Canada, or Hong Kong is considered Mr. Leung's principal place of business, each country is a WTO Member country.

The principal place of business of THC Communications and Tan Holdings Corporation is the CNMI. Moreover, the trusts that are the shareholders of Tan Holdings Corporation are all

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Cable & Wireless USA, Inc., 15 FCC Rcd 3050 (2000) and n.14. (referencing Letter from Robert E. Dalton, Assistant Legal Adviser for Treaty Affairs, United States Department of State, to Rebecca Arbogast, Chief, Telecommunications Division, International Bureau, Federal Communications Commission (Feb. 16, 2000) at 1).

Addressed below are the five balancing factors for determining Prospector's "principal place of business": 1) Place of incorporation: Cayman Islands, British West Indies; 2) Nationality of investment principals, officers and directors: Ricardo C. Delgado, Philippine citizen owning 60 percent of Prospector; Jose Ricardo Delgado, Philippine citizen owning 40 percent of Prospector: 3) Country in which world headquarters of owners is located: Philippines; 4) Country in which the majority of tangible property of owners is located: Philippines; and 5) Country from which owners derive their greatest sales and revenues from operations: Philippines.

CNMI trusts; and their common trustee, Siu Lin Tan, **is** a U.S./CNMI citizen. **A** few of the beneficiaries of the trusts are non-U.S./CNMI citizens. Using the Commission's "multiplier" procedure under Section63.09 of its rules, only **2.1** percent of the ultimate indirect ownership in Pacific Telecom **is** considered beneficially held by non-U.S. citizens who are beneficiaries of the trusts that control Tan Holdings Corporation: 0.75 percent attributable to Rosalina Tan, a Philippines citizen; 0.6 percent attributable to Samuel Tan, a Hong Kong citizen; and 0.75 percent attributable to Cynthia Tan, a British national overseas (Hong Kong).

#### III. REQUESTED RULINGS

The 72.1 percent indirect foreign investment in MTC and FCC common carrier license holder GTE Pacifica by Pacific Telecom will provide increased opportunities for better services in the CNMI. Pacific Telecom's shareholders each are controlled by individuals and entities with a strong presence in the Pacific region. In particular, the owners of the managing shareholder have significant prior experience in founding and operating a telecommunications carrier in the Philippines. Pacific Telecom proposes no reduction in services by GTE Pacifica and, in fact, proposes to increase the overall telephone penetration rates in the CNMI. Moreover, as Pacific Telecom is not currently a telecommunications carrier, the transaction would result in no increase in concentration in the relevant markets.'

For these reasons, Pacific Telecom requests a declaratory ruling pursuant to

Section 310(b)(4) of the Acr that the public interest does not prohibit its direct acquisition of

MTC and indirect acquisition of FCC common carrier license holder GTE Pacifica, considering

Pacific Telecom is not affiliated with a former Commission licensee of similar name (Pacific Telecom, Inc.). Compare Pacific Holdings, Inc. Transferor, and Century Telephone Enrerprises. Inc. Transferee. For Consent to Transfer Control of Pacific Telerom, Inc., DA 91-2225, Memorandum Opinion and Order, 13 FCC Rcd 8891 (1997).

Pacific Telecom's current level of 72.1 percent ultimate foreign ownership from entities and individuals from WTO Member countries; (50 percent Philippine ownership through Prospector; 20 percent Canadian ownership through Missouri Holdings; and 2.1 percent Hong Kong/Philippine/United Kingdom ownership through THC Communications). Upon consummation of the transaction, therefore, CNMI/U.S. citizens and entities or individuals with home markets in WTO Member countries will ultimately hold 100 percent of the ownership interests in Pacific Telecom.

Additionally, Pacific Telecom requests additional flexibility in case the ownership interests among beneficiaries of the Tan Family trusts change such that non-CNMI/U.S. citizens have increased beneficial interests in the trusts (for example, if one of the lines of beneficiaries terminates through death, then the percentage ownership attributable to other beneficiaries, including non-U.S. citizens, may increase from current levels) and/or to attract new foreign investment for MTC in the future. Pacific Telecom, thus, requests that the Commission rule that an additional 15 percent foreign investment in Pacific Telecom from entities or individuals from WTO member countries, for a total of as much as 87.1 percent WTO foreign investment, would serve the public interest and would not require additional Commission authorization. Such a

ruling permitting additional future foreign investment from entities or individuals in WTO member countries is fully supported by Commission precedent."

Respectfully submitted,

#### PACIFIC TELECOM INC.

#### /s/ Timothy J. Cooney

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See FCC Public Notice in CC Docket No. 02-44, DA 02-773, April 5,2002 (FCC approves in advance an additional investment of no more than 25 percent by any single non-U.S. investor or entity on top of 46.84 percent indirect foreign interest of citizen of Ireland, a WTO Member country); Voice Stream Wireless Corporation or Omnipoint Corporation et al., 15 FCC Rcd 3341 (2000) (FCC approves up to and including 25 percent indirect foreign ownership in addition to current level of 30.6 percent foreign investment in proposed transferee); FCC Public Notices of International Authorizations Granted: 1) Northeast Digital Networks, Inc., 14 FCC Rcd 6788 (1999), granting authorization for an additional future IS percent indirect foreign ownership above then-current level exceeding 25 percent; 2) Spectrasite Holdings, Inc., 14 FCC Rcd 13344, granting authorization to foreign individuals to hold an additional 15 percent indirect equity interest above current 30 percent foreign indirect ownership; 3) CNG Communications. Inc., 14 FCC Rcd 4996 (1999), granting authorization for additional 15 percent indirect foreign ownership above them current level exceeding 25 percent.

#### ATTACHMENT A

FCC Authorizations Held by The Micronesian Telecommunications Corporation and GTE Pacifica Inc.

#### International Section 214 Authorizations

ITC-214-19970502-00247; 214 Authorization for Facilities-Based and Resale ITC-ASG-1997121 1-00776; (Switched and Private Line Non-Interconnected and ITC-97-779-AL Interconnected where lawful), excluding the Dominican

ITC-97-288 Republic and Venezuela (GTE Pacifica)

ITC-ASG-19971211-00778; 214 Authorization to Construct and Operate the MTC ITC-97-778-AL Interisland Cable System Between the Commonwealth

of the Northern Mariana Islands and Guam Granted By ITC-92-140[8 FCC Rcd 750(1993)] (GTE Pacifica)

Cable Landing License

SCL-92-003-AL Cable Landing License to Land and Operate the MTC

Interisland Cable System Between the Commonwealth of the Northern Manana Islands and **Guam** Granted **by** SCL-92-003 [8 FCC Rcd 750 (1993)] (GTE Pacifica)

Earth Station Authorizations

SES-LIC-20000414-00563; C-band transmit/receive earth station to provide digital

E000 I64 voice/data services (GTE Pacifica)

SES-RWL-20001006-0 1900; C-band transmitireceive earth station to provide digital

Ka-34 voice/data services (GTE Pacifica)

Wireless Telecommunications Authorization

KNKN616 Common Carrier Radio License for Cellular Radio

Telephone Service (GTE Pacifica)

**Domestic Section 214 Authorization** 

Blanket Authorization Domestic Interstate 214 Authorization for CNMI and

Guam Interexchange Carrier Operations (GTE Pacifica)

Blankel Authorization Domestic Interstate 214 Authorization for CNMI Local

Exchange Carrier Operations (Micronesian

Telecommunications Corporation)